

ENTERED

October 27, 2017

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

TRAHEEM THAMES, SPN #02806855,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-17-3100
	§	
HARRIS COUNTY SHERIFF	§	
ED GONZALES,	§	
	§	
Defendant.	§	

MEMORANDUM OPINION AND ORDER

The plaintiff, Traheem Thames, is currently in custody at the Harris County Jail. Thames has filed a Prisoner's Civil Rights Complaint under 42 U.S.C. § 1983 ("Complaint") (Docket Entry No. 1), challenging state court criminal proceedings that are pending against him in Harris County. Thames has submitted an "Affidavit of Indigency," which the court construes as an application for leave to proceed without prepayment of the filing fee (Docket Entry No. 3). Because Thames is incarcerated, the court is required to scrutinize the claims and dismiss the Complaint, in whole or in part, if it determines that the Complaint "is frivolous, malicious, or fails to state a claim upon which relief may be granted" or "seeks monetary relief from a defendant who is immune from such relief." 28 U.S.C. § 1915A(b). After considering the pleadings the court concludes that this case must be dismissed for the reasons explained below.

I. Background

Thames is presently in custody at the Harris County Jail as the result of criminal charges filed against him for human trafficking, compelling prostitution, and sexual assault, among others.¹ Public records confirm that Thames was booked into the Harris County Jail on October 9, 2016, after he was charged with the following felony offenses: aggravated sexual assault, Cause No. 151545501010; aggravated sexual assault, Cause No. 151545601010; and possession of a controlled substance, Cause No. 150957401010.² On April 11, 2017, the following additional charges were lodged against Thames: sexual assault of a child, Cause No. 154742701010; compelling prostitution of a child younger than 18, Cause No. 154742601010; trafficking of a child - prohibited conduct, Cause No. 154742501010.³ All of these charges are pending in the 179th District Court for Harris County, Texas.

Thames has filed this civil rights lawsuit under 42 U.S.C. § 1983 against Harris County Sheriff Ed Gonzales, alleging that he was denied a prompt probable cause determination within 48 hours of his arrest on October 9, 2016.⁴ Arguing that his Fourth Amendment

¹Complaint, Docket Entry No. 1, p. 4.

²Harris County District Clerk's Office website, located at: <http://www.hcdistrictclerk.com> (last visited Oct. 26, 2017).

³Id.

⁴Complaint, Docket Entry No. 1, p. 4; see also Legal Memorandum, Docket Entry No. 2, pp. 1-3.

rights have been violated, Thames asks for the charges against him to be "dismissed with prejudice" and he asks this court to order his immediate release from custody.⁵

II. Discussion

Thames' allegations concern criminal charges that are currently pending against him in state court. Absent extraordinary circumstances the doctrine of abstention announced in Younger v. Harris, 91 S. Ct. 746, 751 (1971), prohibits interference by a federal court with a pending state criminal prosecution. See DeSpain v. Johnston, 731 F.2d 1171, 1176 (5th Cir. 1984) ("The Younger doctrine establishes a presumption that the federal courts should abstain in cases in which a state criminal proceeding is pending."); see also Louisiana Debating and Literary Ass'n v. City of New Orleans, 42 F.3d 1483, 1489 (5th Cir. 1995) ("[Abstention] 'is generally deemed appropriate [when] assumption of jurisdiction by a federal court would interfere with pending state proceedings, whether of a criminal, civil, or even administrative character.'") (citation omitted).

Thames has an adequate avenue for raising his claims in state court, where records show that he is represented by counsel. The pleadings in this case do not otherwise demonstrate that extraordinary circumstances are present or that federal court intervention is warranted. Under these circumstances the court

⁵Complaint, Docket Entry No. 1, p. 4.

must abstain from exercising jurisdiction over the plaintiff's claims.


III. Conclusion and Order

Based on the foregoing, the court **ORDERS** as follows:

1. The application for leave to proceed without prepayment of the filing fee (Docket Entry No. 3) is **GRANTED**.
2. Officials at the Harris County Jail are directed to deduct the filing fee for indigent litigants (\$350.00) from the Inmate Trust Fund account of Traheem Thames (SPN #02806855) in periodic installments pursuant to 28 U.S.C. § 1915(b), and forward those funds to the Clerk of Court until the entire fee is paid.
3. The Prisoner's Civil Rights Complaint filed by Traheem Thames (Docket Entry No. 1) is **DISMISSED without prejudice**.

The Clerk is directed to provide a copy of this Memorandum Opinion and Order to the plaintiff. The Clerk will also provide a copy of this order by regular mail or electronic mail to the Harris County Jail Inmate Trust Fund, Attn: Sergeant Tom Katz, 1200 Baker Street, Houston, Texas, 77002, phone: (713) 755-8436, fax: 713-755-4546.

SIGNED at Houston, Texas, on this 27th day of October, 2017.



SIM LAKE
UNITED STATES DISTRICT JUDGE